

REMARKS

Claims 13-16, 20 and 24-28 were pending in this application when last examined. Claims 13-16 and 26-28 are cancelled without prejudice, claim 24 is currently amended and new claims 29-33 have been added. Claims 20, 24, 25 and 29-33 will be pending upon entry of this amendment.

Support for the amendments can be found in the specification and in the original claims as filed. Support for amended claim 24 can be found, for example at page 17, lines 4-29, and in Figure 4. Support for new claim 29 can be found at page 17, line 31 to page 18, line 10, and in Figure 5. Support for new claim 30 can be found at page 18, lines 12-25, and in Figure 6. Support for new claims 31-32 can be found at page 18, lines 27-32. Support for new claim 33 can be found at page 16, lines 22-31, and in Figure 3. No new matter has been added.

CLAIM REJECTIONS - 35 USC §112

At page 2, the Office Action rejects claims 26-27 under 35 U.S.C. § 112, second paragraph, as being indefinite. Applicants respectfully traverse the rejection.

Claims 26-27 have been cancelled and this rejection is moot. Accordingly, Applicants request reconsideration and withdrawal of the rejection.

CLAIM REJECTIONS - 35 USC §103

At page 3, the Office Action rejects claims 13-16, 20 and 24-28 under 35 U.S.C. 103(a) as being unpatentable over BEWICK-SONNTAG et al. (US 6,232,521), in view of NODA et al. (US 2001/0044611). Applicants respectfully traverse the rejection.

Amended claim 24 is directed to a breathable backsheet for an absorbent article that includes, in part, a first layer, a second layer adjacent the first layer, a condensation zone between the first layer and the second layer, and a three dimensional hydrophobic distance layer placed in the condensation zone creating a space between the first layer and the second layer. The distance layer comprises topographical features with raised portions and depressions on a first side of the distance layer and corresponding depressions and raised portions on a second side of the distance layer. The raised portions on the first side of the distance layer are in contact with the first layer, the raised portions of the second side of the distance layer are in contact with the second layer, and the raised portions create a distance between the first layer and the second layer such that the space between the depressions and the layers creates the condensation zone.

BEWICK fails to teach or suggest a backsheet having these features. BEWICK describes a backsheet having at least two layers, a first layer comprising a gas permeable apertured polymeric film and a second layer comprising a gas permeable

fibrous fabric layer. BEWICK also states that the "backsheet may comprise additional layers." (column 6, lines 8-9).

BEWICK, however, fails to teach or suggest that any "additional layer" is a layer between the first layer and the second layer. Moreover, BEWICK fails to teach or suggest that any "additional layer" comprises topographical features with raised portions and depressions, or that the raised portions on the first side of the distance layer are in contact with the first layer and the raised portions of the second side of the distance layer are in contact with the second layer. Finally, BEWICK fails to teach or suggest that the raised portions create a distance between the first layer and the second layer such that the space between the depressions and the layers creates a condensation zone.

While BEWICK makes one simple statement that the backsheet can "comprise additional layers" BEWICK fails to provide any additional information or explanation regarding what these additional layers do or how they are arranged in the backsheet. BEWICK fails to provide anything to teach or suggest to one of ordinary skill in the art that additional layers would be arranged between the first and second layers, that the additional layer would include topographical features with raised portions and depressions, or that the additional layer could be arranged to function as any type of condensation zone.

In Figure 2, BEWICK illustrates a cross-sectional view of its backsheet (24). BEWICK labels the first layer (25) and the second layer (26), and shows apertures (28) and protuberances (29), but fails to include any description or label any additional layer or any three dimensional hydrophobic distance layer comprising topographical features.

BEWICK describes a backsheet for an absorbent article that is designed with particular detail to the fluid contact angles and surface energy gradients of each the surfaces of the layers (see, column 2, lines 50-65). The specifics of the contact angles and energy gradients are detailed from column 6, line 57 to column 12, line 53. BEWICK utilizes the fluid contact angles and surface energy gradients of the surfaces of the layers in contact with each other to block liquid transfer but transmit water vapor. Essentially, BEWICK relies on these properties to design an absorbent article that exhibits a fluid contact angle gradient across the storage layer and back sheet.

In order for BEWICK to include any additional layer between the first layer and the second layer, BEWICK must not disturb the detailed fluid contact angle gradients or it will destroy the functionality of the BEWICK article. Including an additional layer with topographical features between the first and second layers would change the fluid contact angle gradient and change the principle of operation of the BEWICK article.

For all of these reasons, BEWICK fails to teach or suggest a breathable backsheet for an absorbent article comprising the arrangement of features as recited in claim 24. Claims 20 and 25 depend from claim 24.

The Office Action cites NODA only for teaching a hydrophobic element with a thickness greater than 0.1 mm. NODA, however, fails to remedy the deficiencies of BEWICK detailed above and fails to teach or suggest a three dimensional hydrophobic distance layer comprising topographical features between the first layer and the second layer, or features which create a condensation zone, as recited in the present claims.

For all of these reasons, the combination of BEWICK and NODA fails to teach or suggest, and fails to render obvious, claims 20, 24 and 25. Claims 13-16 and 26-28 have been cancelled. Accordingly, Applicants request reconsideration and withdrawal of the rejection.

NEW CLAIMS 29-33

Each of new claims 29-33 recite features that further distinguish over BEWICK and/or NODA.

New claim 29 is directed to a breathable backsheet for an absorbent article that includes, in part, a first layer, a second layer adjacent the first layer and a condensation zone between the first layer and the second layer. The first layer has a three dimensional form with raised portions and depressions,

the raised portions are in contact with the second layer at several points, and the raised portions create a distance between the first layer and the second layer such that the space between the depressions and the layers create the condensation zone.

New claim 30 depends from claim 29 and further recites that the second layer also has a three dimensional form with raised portions and depressions, the raised portions of the second layer are in contact with corresponding raised portions of the first layer at several points, and the raised portions create a distance between the first layer and the second layer such that the space between the depressions and the layers create the condensation zone.

As detailed above, BEWICK is designed with particular detail to the fluid contact angles and surface energy gradients of each the surfaces of the layers. BEWICK fails to disclose how any layer could include a three dimensional form with raised portions and depressions and continue to maintain the necessary fluid contact angles and surface energy gradients required to for proper transport of liquid and vapor in the article.

Furthermore, as shown in Figure 2, BEWICK fails to disclose any topographical features that are in contact. In other words, the layers pointed out in the Office Action, i.e., layers 22 and 25, do not include raised portions that are in contact with a respective layer at several points. In particular, BEWICK fails to teach or suggest a first layer with raised portions and

depressions, a second layer with raised portions and depressions, wherein the respective raised portions are in contact, as featured in claim 30.

In new claims 31 and 32, the backsheet includes the three dimensional hydrophobic distance layer with the topographical features of raised portions and depressions of claim 24, or the first layer with a three dimensional form of raised portions and depressions of claim 29, respectively. In even further distinction from BEWICK and NODA, the backsheet also includes a plurality of hydrophobic particles placed in the spaces between the depressions and the layers.

New claim 33 is directed to a backsheet that is similar to that of claim 24. The backsheet includes a three dimensional hydrophobic distance layer and the distance layer comprises a plurality of hydrophobic particles. Each of the hydrophobic particles is in contact with the first layer and in contact with the second layer, the particles creating a distance between the first layer and the second layer such that the distance between the first layer and the second layer and the distance between each of the particles creates the condensation zone.

In addition to the reasons set forth in the above remarks regarding claim 24, each of new claims 29-33 further distinguish over BEWICK and/or NODA.

CONCLUSION

Entry of the above amendments is earnestly solicited. Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Should there be any matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

The Commissioner is hereby authorized in this, concurrent, and future submissions, to charge any deficiency or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

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